

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-9249.M2



**7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
Fax: (800) 580-3123**

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 8, 2005

Requester/ Respondent Address:

TWCC
Attention: Rebecca Farless
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-1609

Alvaro Hernandez, MD
Fax: 915-533-1723
Phone: 915-533-1628

Service Lloyds c/o Harris & Harris
Attn: Robert Josey
Fax: 512-346-2539
Phone: 512-346-5533

RE: Injured Worker:

MDR Tracking #: M2-05-2111-01
IRO Certificate #: IRO 5263

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic reviewer (who is board certified in orthopedic surgery) who has an ADL certification. The physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Records from Alvaro A. Hernandez, MD
- MRI reports 12-23-04 and 5-25-05
- Physical Therapy records post surgery

Submitted by Respondent:

- Denial letter Lloyd's insurance
- Review by Gary Freeman, MD dated 4-9-05
- Evaluation by Brian Buck, MD
- Evaluation by Juan Capello, MD

Clinical History

This is a 52-year-old male who was installing insulation on ___ and noted sudden pain in his right knee. An MRI on 12-23-04 indicated a complex tear of the medial meniscus. On 2-3-05 he underwent arthroscopy of his right knee with a partial medial meniscectomy. He continued to complain of pain post surgery and his knee was injected on 6-1-05. A repeat MRI on 5-25-05 noted arthritis in the medial compartment of his right knee. X-rays post-op were interpreted as narrowing of the medial joint line. An evaluation by Dr. Capello in 6-3-05 noted symptom magnification with sighing and moaning, 2+ effusion in the right knee, range of motion 0°-95°, ligaments were stable and there was no atrophy in the right lower extremity.

Requested Service(s)

OA brace for the right knee

Decision

I agree with the insurance carrier that the above service is not medically necessary.

Rationale/Basis for Decision

It is premature to brace the above patient at this time. He should continue with oral anti-inflammatories and his cane as needed. He should learn a closed chain exercise program and do this at home. He needs weight bearing anteroposterior x-rays of his knees so the joint spaces can be accurately measured with repeat x-rays in 6 months to see how much his arthritis is progressing if at all. If he has a persistent effusion, his knee should be aspirated and the fluid sent for analysis and culture and sensitivity if there is suspicion of infection. If his arthritis continues to progress, then an unloader brace could be considered.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions, a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 142.5(c)).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings / Appeals Clerk
P.O. Box 17787
Austin, Texas 78744

Fax: 512-804-4011

The party appealing this decision shall deliver a copy of its written request for a hearing to other party involved in this dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 8th day of August 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder